

Report Date: March 7, 2006

United States District Court

for the

Eastern District of Washington

FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

MAR 08 2006

JAMES R. LARSEN, CLERK
DEPUTY
SPOKANE, WASHINGTON

**Request for Modifying the Conditions or Term of Supervision
with Consent of the Offender**

(Probation Form 49, Waiver of Hearing is Attached)

Name of Offender: Michael Barbian

Case Number: 2:04CR00094-001

Name of Sentencing Judicial Officer: The Honorable Fred VanSickle

Date of Original Sentence: 01/22/2002

Type of Supervision: Probation

Original Offense: Failure to Pay Legal Child Support
Obligation, 18 U.S.C. § 228(a)(1)

Date Supervision Commenced: 01/22/2002

Original Sentence: Probation - 60 Months

Date Supervision Expires: 01/21/2007

PETITIONING THE COURT

To modify the conditions of supervision as follows:

- 8 You shall abstain from the use of illegal controlled substances, and shall submit to urinalysis testing, as directed by the supervising probation officer, but no more than (6) tests per month, in order to confirm continued abstinence from these substances.
- 9 You shall abstain from alcohol and shall submit to testing (including urinalysis and Breathalyzer), as directed by the supervising probation officer, but no more than (6) tests per month, in order to confirm continued abstinence from this substance.

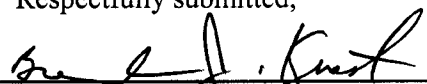
CAUSE

The purpose of this petition is to apprise the Court of the status of the aforementioned case, in light of the Ninth Circuit Court of Appeals' finding in United States v. Stevens (9th cir. 2005), and to request that the conditions of supervision be modified to authorized a maximum of six random drug and/or alcohol tests per month.

The offender signed the "Waiver of Hearing to Modify Conditions of Supervised Release," on March 7, 2006. He understands the rationale behind this modification. Mr. Barbian continues to submit to random/alcohol testing. To date, all tests have been negative.

Respectfully submitted,

by



Brenda J. Kuest
U.S. Probation Officer
Date: March 7, 2006

Prob 12B

Re: Barbian, Michael

March 7, 2006

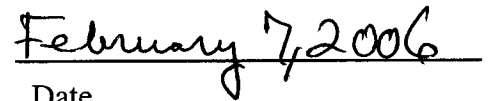
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THE COURT ORDERS

- ☐ No Action
☐ The Extension of Supervision as Noted Above
FVS ☒ The Modification of Conditions as Noted Above
☐ Other



Signature of Judicial Officer



Date

PROB 49

Waiver of Hearing to Modify Conditions
of Probation/Supervised Release or Extend Term of Supervision

UNITED STATES DISTRICT COURT
for the
EASTERN DISTRICT OF WASHINGTON

Name: Michael Scott Barbian

Docket No.: 2:04CR00094-001

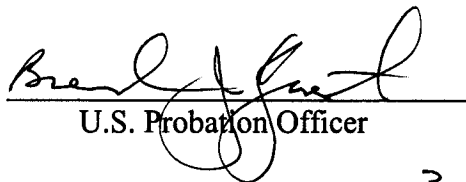
I have been advised and understand that I am entitled by law to a hearing and assistance of counsel before any unfavorable change may be made in my Conditions of Probation and Supervised Release or my period of supervision being extended. By 'assistance of counsel', I understand that I have the right to be represented at the hearing by counsel of my own choosing if I am able to retain counsel. I also understand that I have the right to request the Court to appoint counsel to represent me at such a hearing at no cost to myself if I am not able to retain counsel of my own choosing.

I hereby voluntarily waive my statutory right to a hearing and to assistance of counsel. I also agree to the following modification of my Conditions of Probation and Supervised Release or to the proposed extension of my term of supervision:

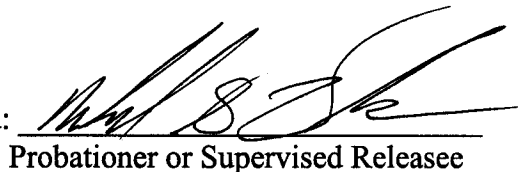
8. You shall abstain from the use of illegal controlled substances, and shall submit to urinalysis testing, as directed by the supervising probation officer, but no more than (6) tests per month, in order to confirm continued abstinence from these substances.

9. You shall abstain from alcohol and shall submit to testing (including urinalysis and Breathalyzer), as directed by the supervising probation officer, but no more than (6) tests per month, in order to confirm continued abstinence from this substance.

Witness:


U.S. Probation Officer

Signed:


Probationer or Supervised Releasee

3-7-06

DATE